

Serial: 156869

IN THE SUPREME COURT OF MISSISSIPPI

No. 2009-JP-00300-SCT

*MISSISSIPPI COMMISSION ON  
JUDICIAL PERFORMANCE*

v.

*JOE M. BROWN*

**ORDER**

¶1. This matter is before the Court, *en banc*, on recommendation of the Mississippi Commission on Judicial Performance that a justice court judge be publicly reprimanded, suspended for thirty days without pay, fined \$1,500 and assessed costs of the proceedings, stemming from allegations that he improperly touched a justice court deputy clerk and used racially derogatory language.

¶2. The Court finds that there is an insufficient factual basis before us to determine whether the recommended sanctions, or any sanctions at all, are appropriate. We therefore remand this matter to the Commission for further factual development.

¶3. Among the pleadings before the Court is a document entitled *Agreed Statement of Facts and Proposed Recommendations* presented by the Commission and the respondent justice court judge which provides the only information given us respecting the alleged misconduct by the respondent judge. This recitation of “Agreed Facts” is superficial at best, and does little

to inform this Court of what proof was adduced before the Commission. While purporting to constitute an agreement between the Commission and the respondent judge respecting the accusations, it states, regarding the charge of racially derogatory language: “It was alleged that Respondent has used inappropriate language on more than one occasion, *which Respondent denies.*” (Emphasis added.) Obviously, this is far from an agreement between the Commission and the Respondent on the basis of which this Court can or should impose sanctions, notwithstanding the concluding statement, “Respondent agrees that it is improper to use racially derogatory language and agrees not to use such language.” No other information is provided on this subject. This Court, therefore, has no way to determine what language was actually used, to whom it may have been directed, whether it was uttered from the Bench or in some other setting, how many times this may have occurred, the context in which the alleged statements were made, or any other relevant information about it.

¶4. The information provided us concerning the Respondent’s alleged improper touching of a court employee is similarly lacking in detail.

¶5. IT IS, THEREFORE, HEREBY ORDERED that this matter be, and the same is hereby, remanded to the Commission for further proceedings consistent with this order. Costs of this proceeding are taxed to the Mississippi Commission on Judicial Performance.

¶6. SO ORDERED, this the 17th day of August, 2009.

/s/ James W. Kitchens

JAMES W. KITCHENS, JUSTICE